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FISCAL IMPACT STATEMENT

LS 7381

BILL NUMBER: HB 1911

NOTE PREPARED: Jan 11, 2003

BILL AMENDED:

SUBJECT: Income Tax Exemption for Eminent Domain Awards.

FIRST AUTHOR: Rep. Cherry

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill excludes from an individual's state adjusted gross income or a corporation's state taxable income an award received in an eminent domain proceeding to the extent the award is included in the individual's Federal Adjusted Gross Income or the corporation's Federal Taxable Income and is not offset by losses.

Effective Date: July 1, 2003.

Explanation of State Expenditures: The Department of State Revenue (DOR) would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate this exclusion. These expenses presumably could be absorbed given the DOR's existing budget and resources.

Explanation of State Revenues: The bill would reduce state Adjusted Gross Income (AGI) Tax liabilities of some individual and corporate taxpayers that receive eminent domain awards. As data regarding eminent domain awards to Indiana residents is unavailable, the revenue loss due to this bill is indeterminable. Since the deduction is effective beginning in tax year 2004, the bill could begin to affect revenues in FY 2005. The future impact of this deduction may be influenced by several factors. The deduction could potentially be diminished to the extent that a taxpayer has federally deductible losses that, under the bill, must be subtracted from an award amount in computing the deduction. The impact of this deduction also could be diminished to the extent that an award involves the sale of a taxpayer's principal residence, the gain from which would already be excluded from federal adjusted gross income for most taxpayers. Currently, an individual taxpayer may exclude up to \$250,000 (\$500,000 for joint filers) in monetary gains from the sale of his or her principal residence.

Background: The bill allows an individual or corporate taxpayer to deduct from Indiana AGI, an eminent domain award included in the taxpayer's federal adjusted gross income (federal taxable income for corporations). However, the allowable deduction is equal to the eminent domain award minus any deductible losses the taxpayer claimed for federal tax purposes. Such losses include theft, casualty, and capital losses that are deducted in computing federal adjusted gross income (federal taxable income for corporations). In addition, individuals may claim loss deductions only if: (1) the loss is incurred in a trade or business; (2) the loss is incurred in any transaction entered into for profit, though not connected with a trade or business; or (3) the loss arises from casualty or theft not connected with a trade or business or a profit-making transaction.

Since the deduction is effective beginning in tax year 2004, the fiscal impact would begin in FY 2005. Revenue from the AGI Tax on corporations is deposited in the state General Fund and the Property Tax Replacement Fund. Eighty six percent of the revenue from the AGI Tax on individuals is deposited in the state General Fund, and 14% of this revenue is deposited in the Property Tax Replacement Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: Because the proposed deduction would serve to decrease Taxable Income, counties imposing local option income taxes (CAGIT, COIT, and/or CEDIT) may, as a result, experience an indeterminable decrease in revenue from these taxes.

State Agencies Affected: Department of State Revenue.

Local Agencies Affected: Counties with a local option income tax.

Information Sources: Jennifer Thuma, Attorney General's Office, (317) 233-6143. *U. S. Master Tax Guide, 2003*, paragraphs 1705-1716; 1101.

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